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27 *Attorneys for Plaintiff Federal Trade Commission*

18 **UNITED STATES DISTRICT COURT**  
19 **DISTRICT OF NEVADA**

20 FEDERAL TRADE COMMISSION,

21 Case No. 2:12-cv-536

22 Plaintiff,

23 v.

24 AMG Services, Inc. et al.,

25 **PLAINTIFF FEDERAL TRADE**  
26 **COMMISSION'S UNOPPOSED**  
27 **MOTION TO TAKE THIRD**  
28 **PARTY DISCOVERY**

Defendants, and

Park 269, LLC, et al.,

Relief Defendants.

## INTRODUCTION

Plaintiff Federal Trade Commission (“FTC”) moves for leave to serve third party subpoenas on EVAS Investments, LLC (“EVAS”), TBC Investments, LLC (“TBC”), and David Feingold (collectively, the “Feingold Parties”). The purpose of this motion is to expand the Court-approved list of 22 entities from whom the FTC may seek pre-judgment asset discovery (ECF No. 1026), by adding to that list two entities and an individual involved with Scott Tucker’s investments in two of the originally-named 22 entities. The Feingold Parties and the Tucker Defendants do not oppose this motion.

1. In this action to recompense millions of consumers harmed by Defendants' deception, the Court entered a preliminary injunction freezing Defendants' assets and the assets of their entities. (ECF No. 960, the "Order.") The Order also requires that Defendants and their asset holders produce information and documents regarding the assets of Defendants and their entities to the FTC. (*Id.*)

2. The Order required Defendant Scott Tucker to provide detailed information on his assets and entities, but he refused to do so based on his Fifth Amendment right against self-incrimination. (ECF 983.) The Court accepted Mr. Tucker's Fifth Amendment invocation, but ordered that the FTC may request leave to take third-party discovery to uncover Mr. Tucker's assets. (ECF No. 1018, 1030.)

3. Upon the FTC’s subsequent motion, the Court reopened limited discovery as to 22 specific nonparty entities and stated, “If the FTC wishes to subpoena additional entities it must file a motion with the court, and the Tucker Defendants will be given an opportunity to oppose.” (ECF No. 1026 at 2.)

4. One of the 22 entities upon which the FTC was granted leave to serve third party discovery was EyeVerify, LLC. (ECF No. 1026 at 3; 1018 at 8.) The FTC served a subpoena on EyeVerify on or about August 22, 2016. (Schall Decl. ¶ 2.) In response to the subpoena, EyeVerify explained the following facts with respect to Scott Tucker's role:

- EyeVerify, LLC, was organized in November 2011. (Schall Decl. Atts. A, B.)
- On or about May 15, 2013, Scott Tucker executed a Securities Purchase Agreement to invest \$1,000,000 in EyeVerify, LLC. He signed the Securities Purchase Agreement as the Authorized Representative for EVAS Investments, LLC. (Schall Decl. Atts. A, C.)
- Scott Tucker signed the \$1 million check for EVAS's initial investment in Eyeverify, LLC. (Schall Decl. Atts. A, D.)

- 1 • On or about April 2014, EyeVerify, LLC changed from an LLC to a C Corporation;  
2 thereafter, EyeVerify, Inc., has been the operative company, and EyeVerify, LLC, has been  
3 dormant. (Schall Decl. Atts. A, E.)
- 4 • EVAS's current ownership of EyeVerify, Inc., on a fully diluted basis, is 6.70 %. (Schall  
5 Decl. Att. F.)
- 6 • Scott Tucker and EVAS have had no role managing either EyeVerify entity. (Schall Decl.  
7 Att. A.)
- 8 • EyeVerify, Inc. was to be sold on September 9, 2016. David Feingold managed EVAS's  
9 receipt of its proceeds from the sale. (Schall Decl. Atts. A, G.)

10 5. In light of this information, the FTC sent the Order to Mr. Feingold and EVAS. They  
11 responded claiming that on or about May 5, 2015, Scott Tucker transferred his ownership of EVAS to Mr.  
12 Feingold. (Schall Decl. Att. H, I.)

13 6. Another of the 22 entities upon which the FTC was Think Big Partners LLC. Mr. Feingold  
14 informed the FTC that Mr. Tucker owned his interests in Think Big Partners LLC via company named  
15 TBC Investments, LLC ("TBC"), and that, on May 5, 2015, Mr. Tucker transferred his ownership of TBC  
16 to Mr. Feingold. (Schall Decl. Att. J.)

17 7. The FTC moves for permission to serve third-party subpoenas on the Feingold Parties.  
18 Further discovery is necessary for the FTC – and Court – to assess whether the May 5, 2015 assignments of  
19 Scott Tucker's ownership interests in EVAS and TBC were valid. Furthermore, Mr. Feingold might have  
20 information about other Scott Tucker assets or entities.

21 8. The Feingold Parties informed the FTC via counsel that they do not oppose this motion.  
22 (Schall Decl. ¶ 7.) The Tucker Defendants informed the FTC via counsel that they take no position with  
23 respect to this motion. (Schall Decl. ¶ 8.)

## 24 CONCLUSION

25 For the foregoing reasons, the Court should permit the FTC to serve third party subpoenas on David  
26 Feingold, EVAS Investments, LLC, and TBC Investments, LLC.

1 Dated: September 13, 2016

Respectfully submitted,

2 /s/ Nikhil Singhvi

Nikhil Singhvi

3 Jason D. Schall

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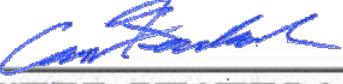
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5 Courtney A. Estep

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7 *Federal Trade Commission*

13 **IT IS SO ORDERED.**

14   
15 **UNITED STATES MAGISTRATE JUDGE**  
16 **DATED:** 9-15-2016

## **CERTIFICATE OF SERVICE**

I, Nikhil Singhvi, certify that, as indicated below, all parties were served by ECF with **PLAINTIFF FEDERAL TRADE COMMISSION'S MOTION TO TAKE THIRD PART DISCOVERY** filed with the Court.

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By prior agreement, David Feingold, EVAS Investments, LLC, and TBC Investments, LLC were served by email to:

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September 13, 2016

/s Nikhil Singhvi  
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